

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE: )  
 )  
ITT EDUCATIONAL SERVICES, INC., *et al.*<sup>1</sup>) Case No. 16-07207-JMC-7A  
 )  
Debtors. ) Jointly Administered  
 )  
 )  
DEBORAH J. CARUSO, the CHAPTER 7 )  
TRUSTEE for ITT EDUCATIONAL )  
SERVICES, INC., ESI SERVICE CORP. and )  
DANIEL WEBSTER COLLEGE, INC., )  
 )  
Plaintiff, ) Adversary Proceeding No. 18-50100  
vs. )  
 )  
KEVIN MODANY, JOHN E. DEAN, )  
C. DAVID BROWN II, JOANNA T. LAU, )  
THOMAS I. MORGAN, JOHN VINCENT )  
WEBER, JOHN F. COZZI, SAMUEL L. )  
ODLE, and JERRY M. COHEN, )  
 )  
Defendants. )

**NOTICE OF INITIAL EXTENSION OF TIME TO RESPOND TO COMPLAINT AND JOINT  
MOTION TO FURTHER EXTEND TIME TO RESPOND TO COMPLAINT**

Come now Kevin Modany (“Modany”), and Deborah J. Caruso, Chapter 7 Trustee (the “Trustee”) by counsel, and request an extension of time, exceeding 28 days, to submit a response to the Summons & Complaint in the above captioned Adversary Proceeding.

**Initial Extension of Time**

1. On June 4, 2018, counsel for the Trustee served counsel for Modany with a copy of the Complaint initiating this Adversary Proceeding along with a Summons.
2. The original due date for Modany’s response to the Complaint was July 2, 2018.

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<sup>1</sup> The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

3. Modany requested an initial twenty-eight (28) day extension of time within which to file a response to the Complaint, up to and including July 31, 2018.
4. Counsel for the Trustee did not object to the requested extension.
5. The due date for the Modany's response to the Complaint is currently extended to and includes July 31, 2018.

**Request for Additional Time**

6. On June 28, 2018, counsel for Modany contacted Counsel for Plaintiff, requesting a second extension of time beyond July 31, 2018, to accommodate Modany's attendance at the jury trial in the District Court for the Southern District of Indiana, Case No. 1:15-cv-00758-JMS-MJD, *United States Securities and Exchange Commission v. Kevin M. Modany, Daniel M. Fitzpatrick*, currently scheduled to commence July 9, 2018, and expected to take 15 days.
7. Counsel for Plaintiff does not object to an additional period of time, up to, and including August 24, 2018 for Modany to respond to the Complaint.

WHEREFORE, Modany and the Trustee respectfully request that the Court enter an order (substantially in the form of Exhibit A) extending the deadline for Modany's response to the Complaint to August 24, 2018.

Dated: July 2, 2018

Respectfully submitted,

<p><b>ICE MILLER LLP</b></p> <p>/s/ <i>Philip A. Whistler</i></p> <p>Philip A. Whistler      Thomas Mixdorf      One American Square      Indianapolis, Indiana 46282      Telephone: (317) 236-2349      Email: philip.whistler@icemiller.com      Email: thomas.mixdorf@icemiller.com</p> <p><i>Local Counsel to Kevin M. Modany</i></p>	<p><b>RUBIN &amp; LEVIN, P.C.</b></p> <p>/s/ <i>Carly A. Kessler</i></p> <p>Thomas F. Berndt      Carly A. Kessler      399 Park Avenue      Suite 3600      New York, New York 10022      Telephone: (212) 980-7400      Email: tberndt@robinskaplan.com  <a href="mailto:ckessler@robinskaplan.com">ckessler@robinskaplan.com</a></p>
<p><b>MORGAN, LEWIS &amp; BOCKIUS LLP</b></p> <p>John C. Goodchild, III      Rachel Jaffe Mauceri      1701 Market Street      Philadelphia, Pennsylvania 19103      Telephone: (215) 963-5000      Facsimile: (215) 963-5001      Email: <a href="mailto:john.goodchild@morganlewis.com">john.goodchild@morganlewis.com</a>  <a href="mailto:rachel.mauceri@morganlewis.com">rachel.mauceri@morganlewis.com</a></p> <p>Elaine V. Fenna      101 Park Avenue      New York, New York 10178      Telephone: (212) 309-6000      Facsimile: (212) 309-6001      Email: <a href="mailto:elaine.fenna@morganlewis.com">elaine.fenna@morganlewis.com</a></p> <p><i>Counsel to Kevin M. Modany</i></p>	<p><b>RUBIN &amp; LEVIN, P.C.</b></p> <p>Meredith R. Theisen      135 N. Pennsylvania Street, Suite 1400      Indianapolis, Indiana 46204      Telephone: (317) 634-0300      Email: mtheisen@rubin-levin.net</p> <p><i>Counsel to Deborah J. Caruso, Chapter 7 Trustee</i></p>

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of July, 2018, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

Richard Allyn  
[rallyn@robinskaplan.com](mailto:rallyn@robinskaplan.com)

Carly Kessler  
[ckessler@robinskaplan.com](mailto:ckessler@robinskaplan.com)

Thomas Berndt  
[tberndt@robinskaplan.com](mailto:tberndt@robinskaplan.com)  
[jgerboth@robinskaplan.com](mailto:jgerboth@robinskaplan.com)

Ronald James Schutz  
[rschutz@robinskaplan.com](mailto:rschutz@robinskaplan.com)

Michael Anthony Collyard  
[mcollyard@robinskaplan.com](mailto:mcollyard@robinskaplan.com)  
[rhoule@robinskaplan.com](mailto:rhoule@robinskaplan.com)

U.S. Trustee  
[ustpregion10.in.ecf@usdoj.gov](mailto:ustpregion10.in.ecf@usdoj.gov)

John C. Hoard  
[johnh@rubin-levin.net](mailto:johnh@rubin-levin.net)  
[jkrichbaum@rubin-levin.net](mailto:jkrichbaum@rubin-levin.net)  
[atty\\_jch@trustesolutions.com](mailto:atty_jch@trustesolutions.com)

/s/Philip A. Whistler

## **EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
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Defendants. )

**ORDER GRANTING JOINT MOTION TO  
FURTHER EXTEND TIME TO RESPOND TO COMPLAINT**

This matter having come before the Court on the Joint Motion to Further Extend Time to Respond to Complaint (“Motion”) filed on behalf of Defendant Kevin Modany and the Chapter 7

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<sup>2</sup> The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

Trustee, having reviewed the Motion and being in all matters duly advised, the Court now GRANTS said Motion and ORDERS that the deadline for Defendant Kevin Modany to respond to the Complaint in the above-captioned Adversary Proceeding is extended to August 24, 2018.

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